IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

COMPANY APPLICATION No. 185 of 2007
In
COMPANY PETITION No. 149 of 1996

For Approval and Signature:
HONOURABLE MR.JUSTICE M.R. SHAH

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1 Whether Reporters of Local Papers may be allowed to see the judgment ?

2 To be referred to the Reporter or not ?

3 Whether their Lordships wish to see the fair copy of the judgment ?

4 Whether this case involves a substantial question of law as to the interpretation of the constitution of India, 1950 or any order made thereunder ?

5 Whether it is to be circulated to the civil judge ?

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SHRI BALAJI DEVELOPERS THRO' IT'S PROPRIETOR - Applicant(s)
Versus
OFFICIAL LIQUIDATOR & 17 - Respondent(s)

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Appearance :

MR BS PATEL for Applicant(s) : 1,MRS RANJAN B PATEL for Applicant(s) : 1,
OFFICIAL LIQUIDATOR for Respondent(s) : 1,
None for Respondent(s) : 2 - 8,12 - 13,15 - 18.
MR TUSHAR MEHTA for Respondent(s) : 9,
MR MANISH R BHATT for Respondent(s) : 10,
MR YV SHAH for Respondent(s) : 11,
MR RM DESAI for Respondent(s) : 14,

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CORAM : HONOURABLE MR.JUSTICE M.R. SHAH

Date : 10/05/2007

ORAL JUDGMENT

1. Present Judge's Summons has been taken out by the applicant – Shri Balaji Developers to quash and set aside the letter dated 8.3.2007 addressed by the respondent No.1. A further prayer is also made to direct the respondent No.1 – Official Liquidator of M/s. Wood Polymers Limited to accept the remaining amount and execute sale deed with clear title in favour of the applicant.

2. It is required to be noted that the offers were invited by the Sale Committee pursuant to the order passed by this Court and on the basis of the valuation which was carried out in the year 2004, the meeting of the Sale Committee was convened in the month of July – 2006. It is the case on behalf of the applicant that as he is the highest offerer who has offered to purchase the property in question at Rs.3.05 Crores and the Sale Committee has accepted his offer, the action of the Official Liquidator in returning the EMD is illegal. It is also further submitted by Shri B.S.Patel, learned advocate appearing

for the applicant that once the Sale Committee has accepted the offer of the applicant, the Official Liquidator may be directed to accept the remaining amount and to execute the sale deed. It appears from the record and the report that the upset price of the property in question was fixed at Rs.3.50 Crores against which the offer of the applicant is only for Rs.3.05 Crores which is much below the upset price. It is also required to be noted that even otherwise, the decision of the Sale Committee is not final and it is always subject to the approval by this Court. Considering the above, when the Official Liquidator has found that the offer of the applicant is much below the upset price, he has returned the EMD. Shri Patel, learned advocate appearing for the applicant is justified to some extent in saying that instead of straight away refunding the EMD, the Official Liquidator ought to have approached this Court by way of OLR for the purpose of consideration of the offer and ought to have waited for the decision of this Court. Be that as it may,

considering the fact that the offer of the applicant to purchase the property in question at Rs.3.05 Crores is much below the upset price (Rs.3.50 Crores) and considering the report, more particularly, considering the fact that the last valuation was done in the year 2004, a judicial notice can be taken that during these three years the valuation of the property must have been increased. Under the circumstances, this Court is not confirming the offer of the applicant to purchase the property in question at Rs.3.05 Crores. Even otherwise, there is no vested right in favour of the applicant to insist that he should be sold the property in question at Rs.3.05 Crores. Under the circumstances, present application is dismissed. Considering the fact that the winding up order has been passed in the year 1998 and the workers and the secured creditors are waiting to get the money, Official Liquidator is directed to have fresh valuation of the property in question by GITCO within a period of four weeks from today and submit the report before this Court for

inviting fresh offers by fixing EMD and upset price on the basis of the said report immediately so that an appropriate order will be passed.

3. With these, present application is dismissed.

[M.R.Shah, J.]

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